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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,718	01/12/2001	Carol Jane Batman	5727-65998	8938

49437 7590 11/30/2007

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EXAMINER	
VU, THONG H	
ART UNIT	**PAPER NUMBER**
2619	
MAIL DATE	**DELIVERY MODE**
11/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/555,718	BATMAN ET AL.	
	Examiner	Art Unit	
	Thong H. Vu	2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 02 November 2007.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-32 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-32 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. Amended claims 1-32 are pending. The Final action is appropriate.

Response to Arguments

2. Applicant's arguments filed 11/02/07 have been fully considered but they are not persuasive to overcome the prior art.

Applicant argues the prior art does not teach or suggest

A. "instructions for configuring the hand-held instrument for determining the concentration of the medically significant component of the body fluid or control"

B. "data for configuring the hand-held instrument for determining the concentration of the medically significant component of the body fluid or control"

Examiner points out the prior art taught (A) "the wireless carrier receives instructions from host computer [Goodman, col 6 lines 1]; the customized management program 110 provides a rapid response to changes in a patient's health. The algorithm is preferably programmed into an appropriately configured message portable device which can be remotely programmable and can conveniently modify the treatment algorithm as appropriate [Goodman, col 10 lines 37-60] wherein the data of the medical portable device such as blood pressure, blood glucose meter can be obtained [Goodman, col 7 lines 35-45].

(B) data transfer for configuration [Goodman, col 7 lines 1-20].

Thus, the rejection is sustained.

Claim Objections

3. Claims 29 and 31 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claims 1, 2, 3, 4, 5, 6 or 7 and 8, 9, 10, 11, 12, 13,

14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 or 28. See MPEP § 608.01(n). Accordingly, the claims 29, 31 have not been further treated on the merits.

Claim Rejections - 35 USC § 102

Claims 1-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Goodman [5,307,263].

As per claim 1, Goodman discloses A method of configuring a hand-held instrument having on-board circuitry for determining the concentration of a medically significant component of a body fluid or a control and producing an electrical signal representative thereof, the method comprising

providing a configuring computer having a first port for transmitting to the hand-held instrument for determining the concentration of the medically significant component of the body fluid or control at least one of instructions for configuring the hand-held instrument for determining the concentration of the medically significant component of the body fluid or control and data for configuring the hand-held instrument for determining the concentration of the medically significant component of the body fluid or control [Goodman, receives instruction from the host, col 6 lines 1; PDA and data transfer, an appropriate configured message device, col 6 line 65-col 7 line 20; data from medical device such as blood pressure, blood glucose, col 7 lines 35-45]

providing on the instrument a second port for receiving from the configuring computer said at least one of instructions for configuring the hand-held instrument for determining the concentration of the medically significant component of the body fluid or control and data for configuring the hand-held instrument for determining the concentration of the

medically significant component of the body fluid or control from the configuring computer, connecting said first port directly to said second port [Goodman, the customized patient management program, reprogrammed, modify, col 10 liens 37-60], transmitting said one of instructions for configuring the hand-held instrument for determining the concentration of the medically significant component of the body fluid or control and data for configuring said instrument for determining the concentration of the medically significant component of the body fluid or control from said first port directly to said second port, receiving said one of instructions for configuring the hand-held instrument for determining the concentration of the medically significant component of the body fluid or control and data for configuring said instrument for determining the concentration of the medically significant component of the body fluid or control directly from said first port at said second port [Goodman, two-way message capability, col 45 lines 30-40], and

configuring said instrument according to said one of instructions for configuring the hand-held instrument for determining the concentration of the medically significant component of the body fluid or control and data for configuring said instrument for determining the concentration of the medically significant component of the body fluid or control transmitted from said first port and received at said second port [Goodman, reprogram, col 6 lines 15-42].

4. Claims 2-32 contain the identical limitations set froth in claim 1. Therefore claims 2-32 are rejected for the same rationale set forth in claim 1.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong H. Vu whose telephone number is 571-272-3904. The examiner can normally be reached on 6:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thong Vu
Primary Examiner

THONG VU
PRIMARY PATENT EXAMINER